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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

(SOUTHERN DIVISION - SANTA ANA)

In Re: Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation	)	Case No. 8:10ML02151 JVS (FMOx)
	)	
This document relates to:	)	APPLICATION OF TOYOTA MOTOR SALES, U.S.A., INC., TOYOTA MOTOR ENGINEERING & MANUFACTURING NORTH AMERICA, INC. AND TOYOTA MOTOR CORPORATION FOR INJUNCTIVE RELIEF AGAINST EL CAJON LUXURY CARS, INC. DBA BOB BAKER LEXUS AND THEIR COUNSEL; DECLARATION OF ANNE O. HANNA; [PROPOSED] ORDER
ALL CASES	)	
(JCCP 4621 AND San Diego County Superior Court; Case No. 37-2010-00086718-CU-PL-CTL)	)	
	)	

On July 16, 2010 this Court entered the Stipulated Protective Order and on August 12, 2010 this Court entered the Stipulated Interim Protective Order re Personally Identifiable Information in In Re: Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation. Thereafter, Larry Willis, counsel for El Cajon Luxury Cars, Inc., dba Bob Baker Lexus ("Bob Baker"), signed the Stipulated Protective Order Exhibit A agreeing to the terms thereof. See Declaration of Anne Hanna, Exhibit A.

APPLICATION OF TOYOTA MOTOR SALES, U.S.A., INC., TOYOTA MOTOR ENGINEERING & MANUFACTURING NORTH AMERICA, INC. AND TOYOTA MOTOR CORPORATION FOR INJUNCTIVE RELIEF AGAINST EL CAJON LUXURY CARS, INC. DBA BOB BAKER LEXUS AND THEIR COUNSEL

1 On December 16, 2010 Larry Willis and others in his firm of Willis/DePasquale, LLP,  
2 counsel of record for defendant El Cajon Luxury Cars, Inc., dba Bob Baker Lexus ("Bob Baker")  
3 in In Re Toyota Motor Cases, Case No. JCCP 4621, and John Saylor, et al. v. Toyota Motor  
4 Corporation, et al., San Diego County Superior Court Case No. 37-2010-00086718-CU-PL-  
5 CTL, filed, lodged and/or served in state court certain documents produced pursuant to the  
6 MDL Stipulated Protective Order and certain documents protected by the MDL Stipulated  
7 Interim Protective Order re Personally Identifiable Information. See Hanna Decl. Ex. B. On  
8 December 17, 2010 counsel for the Toyota Defendants immediately notified counsel for Bob  
9 Baker Lexus that they had violated the terms of the Orders entered by this United States  
10 District Judge James V. Selna and requested that they immediately take all actions necessary  
11 to correct these violations. See Hanna Decl. Ex. C. Counsel for Bob Baker refused, stating the  
12 matter should be resolved by Judge Mohr in the California JCCP proceeding and in the  
13 individual state court Saylor case. See Hanna Decl. Ex. D.

15 As this Court is aware, Bob Baker's position is not correct. Pursuant to paragraph 33 of  
16 the Stipulated Protective Order all parties and persons who sign the Protective Order agree to  
17 be bound by its terms and subject to this Court's jurisdiction. The ruling on this matter is within  
18 the sole discretion of this Court.

19 Pursuant to paragraph 19 of the Stipulated Protective Order to which Bob Baker agreed  
20 to be bound, Bob Baker is required to obtain written permission from the producing party or an  
21 order from this Court before filing any confidential matter in the public record. Bob Baker did  
22 neither. Additionally, Bob Baker must comply with Local Rule 79-5.5 with respect to the  
23 treatment of personal identifier information, which it also did not do. Bob Baker cannot ignore  
24 the terms of the Stipulated Protective Order, lodge, file and serve such protected documents in  
25 a state court action and then assert unilaterally that such documents will be filed in the public  
26

1 record within 10 days unless defendants file an application or motion to seal in that state court  
2 and then that state court also grants the motion pursuant to California Rule of Court 2.551.

3 The Stipulated Protective Order and the Stipulated Interim Protective Order re  
4 Personally Identifiable Information were negotiated by lead counsel in the MDL proceeding.  
5 Counsel in the state court cases can have access to the discovery produced pursuant thereto if  
6 they agree to the Order's terms. They cannot agree to the Order to obtain its benefits and then  
7 blatantly ignore its restrictions and procedural requirements. Not only did Bob Baker and its  
8 counsel do that here, but they have refused to correct their violations when notified of same.

9  
10 Bob Baker should not have been provided any personally identifiable information  
11 included in the produced documents as they were not included as recipients under the  
12 Stipulated Interim Protective Order re Personally Identifiable Information.<sup>1</sup> Their statement that  
13 they have this information and served unredacted copies on counsel not included in the  
14 Stipulated Interim Protective Order re Personally Identifiable Information and not signatories to  
15 the Stipulated Protective Order flies in the face of this Court's Orders and authority. This is  
16 precisely the type of actions that the Toyota Defendants and all lead counsel must be vigilant  
17 against when permitting state court counsel to become involved in the discovery process.  
18 Defendants are confident that this Court will ensure that this unauthorized and violative activity  
19 is immediately stopped and corrected by Bob Baker.

20  
21 After office hours on Friday December 17, 2010, counsel for Bob Baker sent a letter to  
22 plaintiffs' counsel in the individual Saylor matter requesting that they not open the unredacted  
23 copies served on them and return them (see Hanna Decl. Ex. E), and sent a letter to this Court

24  
25 <sup>1</sup> Bob Baker should not even have possession of documents with personally identifiable  
26 information. The Stipulated Interim Protective Order re Personally Identifiable Information was  
27 negotiated by all lead counsel and the information was to be provided only to a very few  
individuals. Apparently and unfortunately, one or more of those individuals have now released  
that information to unauthorized persons, including to Bob Baker.

1 stating that the Toyota Defendants' "interpretation of this Court's orders [is] specious and  
2 motivated by improper purpose," and Bob Baker "raised" this issue to Judge Mohr and "will  
3 attempt to discuss the same with [Judge Mohr]" at the hearing on another matter. See Hanna  
4 Decl. Ex. F. By these statements, it is clear that Bob Baker and its counsel do not intend to  
5 adhere to the Stipulated Protective Order, and have taken the remarkable position that they  
6 can flagrantly violate this Court's Orders, despite the fact that they agreed to abide by the terms  
7 of the Stipulated Protective Order and agreed that this Court has jurisdiction over them for the  
8 purpose of enforcing the Protective Order.  
9

10 For all the foregoing reasons, the Toyota Defendants request that this Court  
11 permanently enjoin Bob Baker and its counsel from violating this Court's Orders and order  
12 them immediately to take all steps necessary to correct their violations and to ensure that all  
13 such documents are retrieved and that they will not violate these Orders in the future, and for  
14 all such other relief as this Court finds appropriate.

15 Dated: December 20, 2010

Respectfully submitted,

16 By: /s/ Vincent Galvin

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